

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

AMY GITSON,

No. C -13-01517(EDL)

Plaintiff,

**ORDER GRANTING MOTION FOR
LEAVE TO FILE A MOTION FOR
RECONSIDERATION**

v.

CLOVER STORNETTA FARMS,

Defendant.

On March 26, 2014, Defendant Clover Stornetta Farms filed a motion under Civil Local Rule 7-9 for leave to seek reconsideration of the Court's January 14, 2014 order granting in part and denying in part Defendant's motion to dismiss, which was based in part on primary jurisdiction arguments (Docket No. 39). Defendant's motion is based on a March 5, 2014 notice by the FDA regarding the status of evaporated cane juice, the main ingredient at issue in this food labeling case. Defendant maintains that this new FDA notice changes the primary jurisdiction analysis, and cites a case from this district, Reese v. Odwalla, in which the court considered the new FDA notice, granted in part the motion to dismiss on primary jurisdiction grounds, and stayed the case. Docket No. 54-1 at 16 (March 25, 2014 Order of Judge Gonzalez Rogers, Case No. 13-947).

The Court HEREBY grants Defendant's motion for leave to file a motion for reconsideration, solely as to the issue of the impact of the FDA's March 5, 2014 notice on its primary jurisdiction arguments. The Court will not revisit its other rulings. Defendant shall file an opening brief of no more than ten pages no later than April 22, 2014. Plaintiffs shall file an opposition brief of no more than ten pages no later than May 6, 2014. Defendant's reply of no more than five pages shall be filed no later than May 13, 2014. The Court will hear the motion on June 3, 2014, at 9:00 am.

United States District Court
For the Northern District of California

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IT IS SO ORDERED.

Dated: March 31, 2014


ELIZABETH D. LAPORTE
United States Chief Magistrate Judge